

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

January 8, 2010

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

Oahu

Forfeiture of General Lease No. S-5709, Daniel V. Kinikini,  
Lessee, Hauula, Koolauloa, Oahu, Tax Map Key: (1)5-4-014:3.

PURPOSE:

Forfeiture of General Lease No. S-5709, Daniel V. Kinikini,  
Lessee.

LEGAL REFERENCE:

Section 171-39, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government land situated at Lot 18 of the Hauula  
Homesteads, Hauula, Koolauloa, Oahu, identified by Tax Map  
Key: (1)5-4-014:3, as shown on the attached map labeled Exhibit A.

AREA:

4.936 Acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State  
Constitution: YES \_\_\_\_\_ NO x

CHARACTER OF USE:

Diversified Agricultural purposes.

TERM OF LEASE:

30 years, commencing on September 15, 2004 up to September 14, 2034.

ANNUAL RENTAL:

\$1,500.00 due in semi-annual payments

REMARKS:

Pursuant to the authority granted the Chairperson by the Board of Land and Natural Resources at its meeting of January 11, 1980 and the breach provision contained in General Lease S-5709, Daniel V. Kinikini, Lessee, was served a Notice of Default by certified mail dated September 23, 2009 for:

- X   Failure to comply with condition No. 5, "Sanitation" of General Lease No.S-5709, which states "The Lessee shall keep the premises and improvements in a strictly clean, sanitary and orderly condition."

During a site inspection conducted on September 18, 2009, several piles of cut tree branches, stacks of tree leaves, trash, automobile parts, lumber and bags of trash were found on the premises.

- X   Failure to comply with condition No. 9, "Improvements" of General Lease No.S-5709, which states "The Lessee shall not at any time during the term construct, place, maintain or install on the premises any building or improvement of any kind and description except with the prior written approval of the Chairperson and upon those conditions the Chairperson may impose, including any adjustment of rent, unless otherwise provided in this lease."

During the Inspection, a storage shed structure was noted on the premises. Our records fail to show any prior written approval from the Chairperson for the said structure.

- X   Failure to comply with condition No. 12, "Character of use" of General Lease No. S-5709, which states "The Lessee shall use or allow the premises leased to be used solely for intensive agricultural purposes." and

During the Inspection, the property was over grown with weeds and tall grass and little agricultural activity was being conducted on the premises since the lease was issued to Lessee on September 15, 2004.

- X   Failure to comply with condition No. 48, of General Lease No. S-5709 under "Abandoned vehicles", which states in pertinent part, "Lessee shall take all steps necessary to prevent the placing or storing of abandoned vehicles within the premises. Any and all abandoned vehicles within the premises shall be removed by Lessee at Lessee's cost and expense."

During the Inspection, there were multiple operable and inoperable vehicles being stored and repaired on the premises.

Said notice, accepted the by the Lessee on October 3, 2009, offered the Lessee a sixty (60) day cure period to correct the defaults. This cure period expired on December 3, 2009. As of January 8, 2010, these breaches have not been cured.

As of this writing, the current status of all lease compliance items are as follows:

RENT: The Lessee is current with all rent obligations.

INSURANCE: The Lessee has posted the required liability insurance policy.

PERFORMANCE BOND: The Lessee have not posted the required performance bond. Bond expired December 2, 2009

CONSERVATION PLAN: The Lessee is currently working with the Natural Conservation Resource Service with the preparation of his conservation plan.

General Lease No. S-5709 dated September 10, 2004 was awarded to Daniel V. Kinikini by way of public auction held on June 30, 2004.

The Land Division later discovered that from the time General Lease No. S-5709 was issued to Daniel Kinikini in September 2004, Mr. Kinikini, had been spending most of the time on the mainland for his treatment of cancer. Mr. Kinikini had authorized his brother-in-law, Paul Tamoa to manage the State's property during his stay on the mainland.

There have been other Notice of Defaults issued to the Lessee on January 30, 2006 and April 25, 2008, for the Performance Bond and on June 30, 2006 for the required Liability Insurance. (Exhibit B)

All of the above defaults have been satisfactory corrected. Presently, the surety bond for General Lease No. S-5709 had expired on December 2, 2009.


Staff conducted a second site inspection of the premises on December 8, 2009 which revealed that although the Lessee had attempted to correct the defaults mentioned above, the premises still remains in an unsatisfactory condition and very minimal agricultural activity was being conducted on the premises from the time the lease was issued on September 15, 2004. (Exhibit C)

Based on the information mentioned above at the time the Notice of Default was sent on September 23, 2009 and the unsatisfactory condition the premises was found to be in during the second site inspection conducted on December 8, 2009, staff is recommending that the lease for General Lease No. S-5709 to Daniel Kinikini be forfeited.

RECOMMENDATION: That the Board:

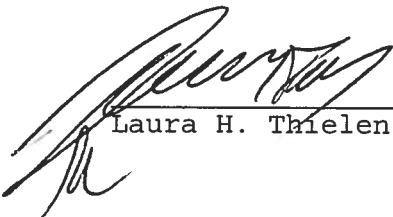

1. Authorize the cancellation of General Lease No. S-5709 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under General Lease No. S-5709 as liquidated damages;
3. Terminate the lease and all rights of Lessee and all obligations of the Lessor effective as of January 8, 2010, provided that any and all obligations of the Lessee which have accrued up to said effective date or which are stated in the lease to survive termination shall endure past such termination date until duly fulfilled, and further provided that Lessor reserves all other rights and claims allowed by law; and
4. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under General Lease No. S-5709 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,



Steve Lau  
Land Agent

APPROVED FOR SUBMITTAL:

  
Laura H. Thielen, Chairperson 

SUBJECT

EXHIBIT "A"



HAUULA, KOOLAULOA, OAHU (Formerly pgs. 5-4-02)

FOR REAL PROPERTY TAXATION PURPOSES  
SUBJECT TO CHANGE

DEPARTMENT OF TAXATION TAXATION MAPS BUREAU STATE OF HAWAII TAX MAP			
ZONE	FIRST TAXATION DIVISION	SEC.	PLAT
5	4	14	

SCALE 1 IN. = 10 FT.

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

April 25, 2008

Ref.: OD-GL5709

CERTIFIED MAIL: 7004 1160 0006 9584 8386

Daniel V. Kinikini



NOTICE OF DEFAULT

Pursuant to the authority granted me by the Board of Land and Natural Resources at its meeting of January 11, 1980, and the breach provision contained in General Lease S-5709, you are hereby served a Notice of Default on said lease for failure to do the following:

- ☐ Keep lease rental payments current
- ☒ **Post required Performance Bond  
(Expired: 12/02/2007)**
- ☐ Post required Fire Insurance Policy
- ☐ Post required Liability Insurance Policy
- ☐ Other

You are hereby given sixty (60) days from the date of receipt of this letter to cure the above-described breach.

GL 5709  
LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
INTERIM DEPUTY DIRECTOR - LAND

RUSSELL Y. TSUJI  
FIRST DEPUTY

KEN C. KAWAHARA  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAIHOLEWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

EXHIBIT "B"

5/05/08  
TH

Your failure to act on the above matter may result in one or more of the following:

1. Cancellation of General Lease S-5709.
2. Retention of all sums heretofore paid under General Lease S-5709 as liquidated damages.
3. Termination of all your rights and obligations under General Lease No. S-5709.

We therefore urge your fullest cooperation. Should you have any questions, please contact our Oahu District Land Office at (808) 587-0433.

Sincerely,



*for* LAURA H. THIELEN  
Chairperson

cc: Land Board Member  
District Office  
Central Office



LINDA LINGLE  
GOVERNOR



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
P.O. Box 621  
HONOLULU, HAWAII 96809

5709  
**PETER T. YOUNG**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ROBERT K. MASUDA**  
DEPUTY DIRECTOR

**DEAN NAKANO**  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
LAND AND ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

June 30, 2006

Ref.:OD

Certified Mail: 7003 3110 0005 7373 6859

Daniel V. Kinikini



Dear Lessee:

NOTICE OF DEFAULT

Pursuant to the authority granted me by the Board of Land and Natural Resources at its meeting of January 11, 1980, and the breach provision contained in General Lease S-5709 are hereby served a Notice of Default on said lease for failure to do the following:

- \_\_\_\_\_ Keep lease rental payments current
- \_\_\_\_\_ Post required Performance Bond
- \_\_\_\_\_ Post required Fire Insurance Policy
- X   **Post required Liability Insurance Policy**  
**(Required Aggregate Amount: \$1,000,000.00,**  
**Amount Obtained: \$500,000.00)**
- \_\_\_\_\_ Other:

You are hereby given sixty ( 60 ) days from the date of receipt of this letter to cure the above-described breach.

**EXHIBIT " "**  
\_\_\_\_\_

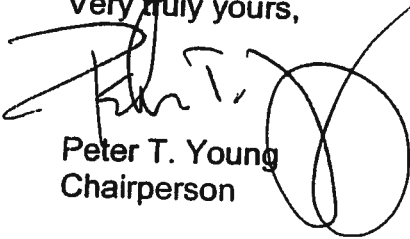


Your failure to act on the above matter will result in the following:

1. Cancellation of General Lease S-5709.
2. Retention of all sums heretofore paid under General Lease S-5709 as liquidated damages.
3. Termination of all your rights and obligations under General Lease No. S-5709.
4. Forfeiture of your lease performance bond.

We therefore urge your fullest cooperation. Should you have any questions, please contact our Oahu District Land Branch at (808) 587-0433.

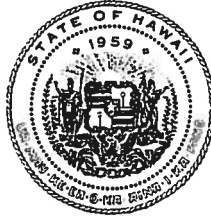
Very truly yours,



Peter T. Young  
Chairperson

cc: Land Board Member  
Central Office  
State Farm Fire & Casualty (Bond Holder)  
District Office  
LA

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

January 30, 2006

PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
DEPUTY DIRECTOR

DEAN NAKANO  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION

LAND  
STATE PARKS  
(Central)

gis-5709

Certified Mail

7001 2510 0002 9389 5462

Mr. Daniel V. Kinikini



Dear Mr. Kinikini:

NOTICE OF DEFAULT

Pursuant to the authority granted me by the Board of Land and Natural Resources at its meeting of January 11, 1980, and the breach provision contained in General Lease S-5709 you are hereby served a Notice of Default on said lease for failure to do the following:

- ☐ Keep lease rental payments current
- ☒ Post required Performance Bond \* (Current Surety Bond expired 1/20/06. Please submit current bond)
- ☐ Post required Fire Insurance Policy
- ☐ Post required Liability Insurance Policy

Our Fiscal Office informs us that you are in arrears in lease rental payments in the amount of \$ -0- covering the period n/a to n/a.

You are hereby given sixty (60) days from the date of receipt of this letter to cure the above-described breach.

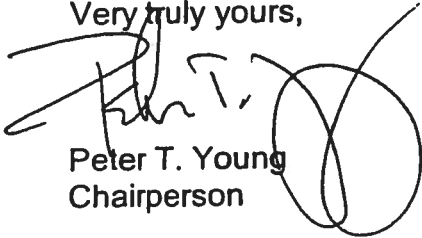
Your failure to act on the above matter will result in the following:

EXHIBIT "    "

1. Cancellation of General Lease S- 5709 .
2. Retention of all sums heretofore paid under General Lease S- 5709 as liquidated damages.
3. Termination of all your rights and obligations under General Lease No. S- 5709
4. Initiation of legal action to collect the delinquent lease rental owing the State of Hawaii under General Lease S- 5709 .

We therefore urge your fullest cooperation. Should you have any questions, please contact our Oahu District Land Branch at (808) 587-0433.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Peter T. Young', is written over a large, circular, stylized mark that resembles a large 'O' or a loop.

Peter T. Young  
Chairperson

cc: Land Board Member  
Central Office

14

**INSPECTION REPORT**  
Intensive Ag/Special Livestock/Pasture/Commercial Timber

**General Information**

Document Number: GLS 5709 or RPS \_\_\_\_\_ Character of Use INTENSIVE Ag  
Inspection Date: 12/8/09 Inspection Time: 10:30 AM Land Agent: STEVE LAU

**TENANT INFORMATION**

Name: DANIEL KINIKINI Home Phone: (808) [REDACTED]  
Address: [REDACTED] 96717 Business Phone: N/A  
Contact Person: [REDACTED] (Brother-in-Law) Fax: [REDACTED]  
Contact Phone: [REDACTED]

**SITE INFORMATION**

TMK: (1) 5-4-014:03 Area: 4.936 acres  
Site Address: [REDACTED]

**FISCAL INFORMATION**

ITEM	NOT APPLICABLE	CURRENT = COMPLIANCE	DEFAULT = NON-COMPLIANCE
Rent		X	
Liability Insurance		X	
Fire Insurance	X		
Bond		X	
Mortgage	X		

**ANNUAL INSPECTION REPORT**  
Intensive Ag/Special Livestock/Pasture/Commercial Timber

**File Review**

**LICENSES/PERMITS/CONSENTS**

ITEM	DLNR Approval Docs in File			COMMENTS/NOTES/LISTS
	N/A	YES	NO	
Removal of Minerals/Waters	X			
Prehistoric/Historic Remains	X			
Cutting/Removal of Trees	X			
Hazardous Material Storage/Use	X			
Subletting	X			attach list or map if applicable
Improvement Construction Buildings			X	note deadlines for % completion
Improvement Construction Other structures			X	note deadlines for % completion
Conservation Plan			X	review plan and schedule; make copy of plan map and text table for use during inspection

**Field Inspection**

ITEM	CRITERIA FOR COMPLIANCE	MEETS COMPLIANCE			COMMENTS/NOTES
		N/A	YES	NO	
Subletting	consents approved use adheres to lease purpose	X			
Buildings / Residences: roof, paint, exterior, interior	clean, sanitary, orderly suitable & well maintained DLNR construction consent adheres to completion schedule *check for hazardous materials			X	prior improvements need to be maintained by current tenant <i>STORAGE SHED STRUCTURE LOCATED on property.</i>
Structures: roads, walkways, fence lines, pipelines, others	cross check w/ conservation plan clean, sanitary, orderly well maintained adheres to completion schedule *check for hazardous materials			X	prior improvements need to be maintained by current tenant
Conservation Plan: conservation structures and plantings	adheres to plan map & schedule well maintained			X	refer to SWCD if plan application & maintenance not in compliance

Premises	clean, sanitary, orderly			X	GRASS TALL & OVERGROWN PILES OF TREE BRANCH cuttings, Leaves, Trash, Tires, auto parts & Rubbish
Hazardous Material Storage / Use	controlled and adheres to consent				
Character of Use	adheres to lease purpose			X	Property overgrown minimum signs of Agricultural Activity.
Phase 1 Environmental Site Inspection	as required in General Lease or Revocable Permit				
Other	<ul style="list-style-type: none"> <li>* STORAGE SHED STRUCTURE Located on property.</li> <li>* 20 FOOT STORAGE CONTAINER on property.</li> <li>* <u>1</u> Derelict VEHICLE, <u>1</u> Abandoned School Bus and <u>1</u> inoperable Vehicle</li> </ul>				



GL-5 TO9, DANIEL KINIKINI



Storage SHED Structure

12/8/09



12/08/2009



GL-5709, DANIEL KINIKINI



Overgrowth Back portion of lot.

12/8/09



STORAGE SHED STRUCTURE

12/10/09



GL-5709, DANIEL KINIKINI



ROLLS OF CHAIN LINK FENCING

12/8/09



AUTO TIRES & TRUCK ON DUMPSTER. 12/10/09



GL-5709, DANIEL KINIKINI



Vegetative Overgrowth. No Aq activity. 12/8/09



DERELICT VEHICLE in Ruins 12/10/09



GE-5 709, Daniel KINIKINI



PILE OF AUTO TIRES

12/8/09



ABANDONED BUS. Back of lot

12/12/09



GL-5704, DANIEL KINIKINI



VEGETATION DIFFERENTIATION

12/12/00 D.



GL-5709, DANIEL KINIKINI

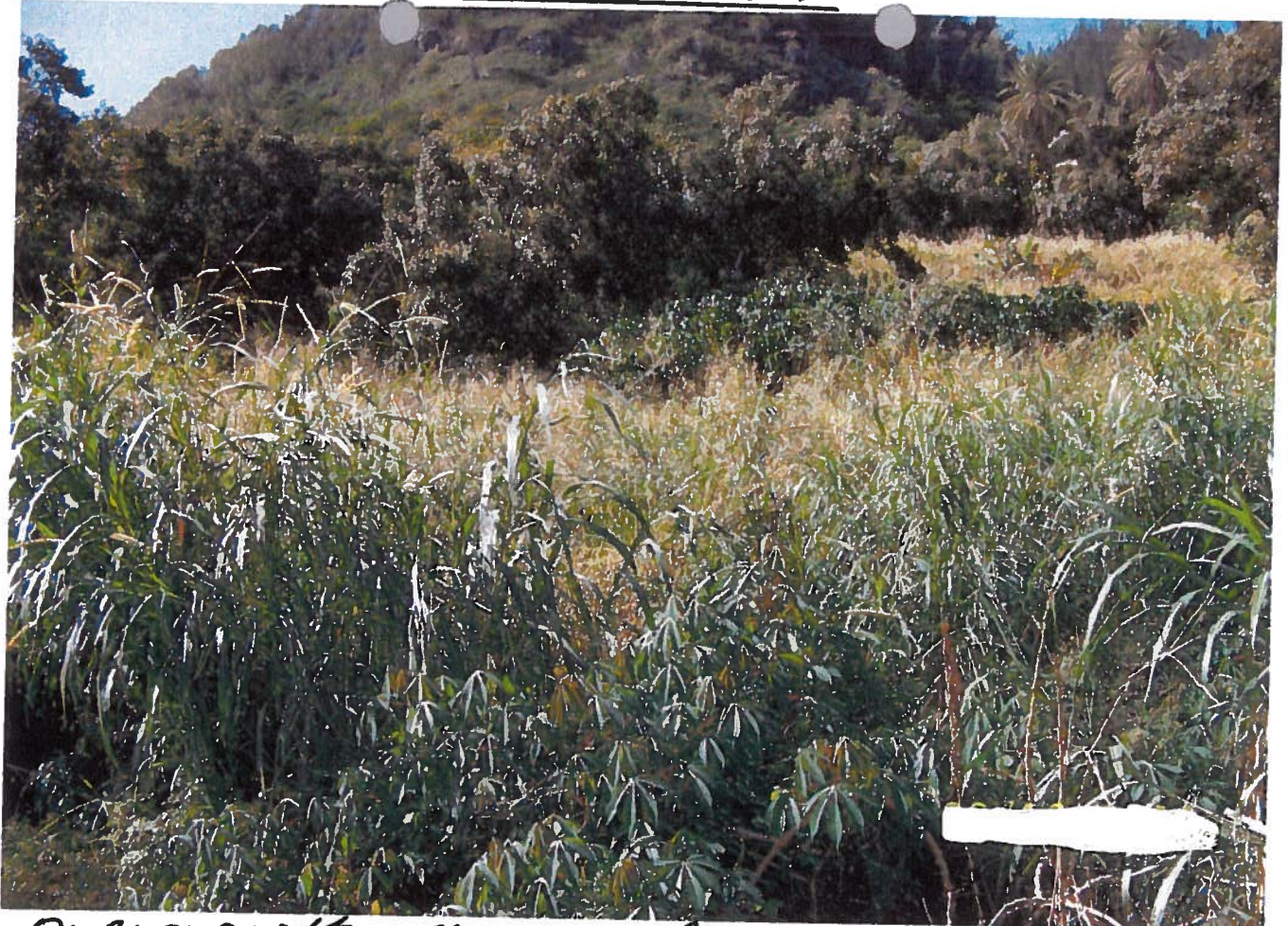


PILE OF DRY / WEATHERED TREE CUTTINGS

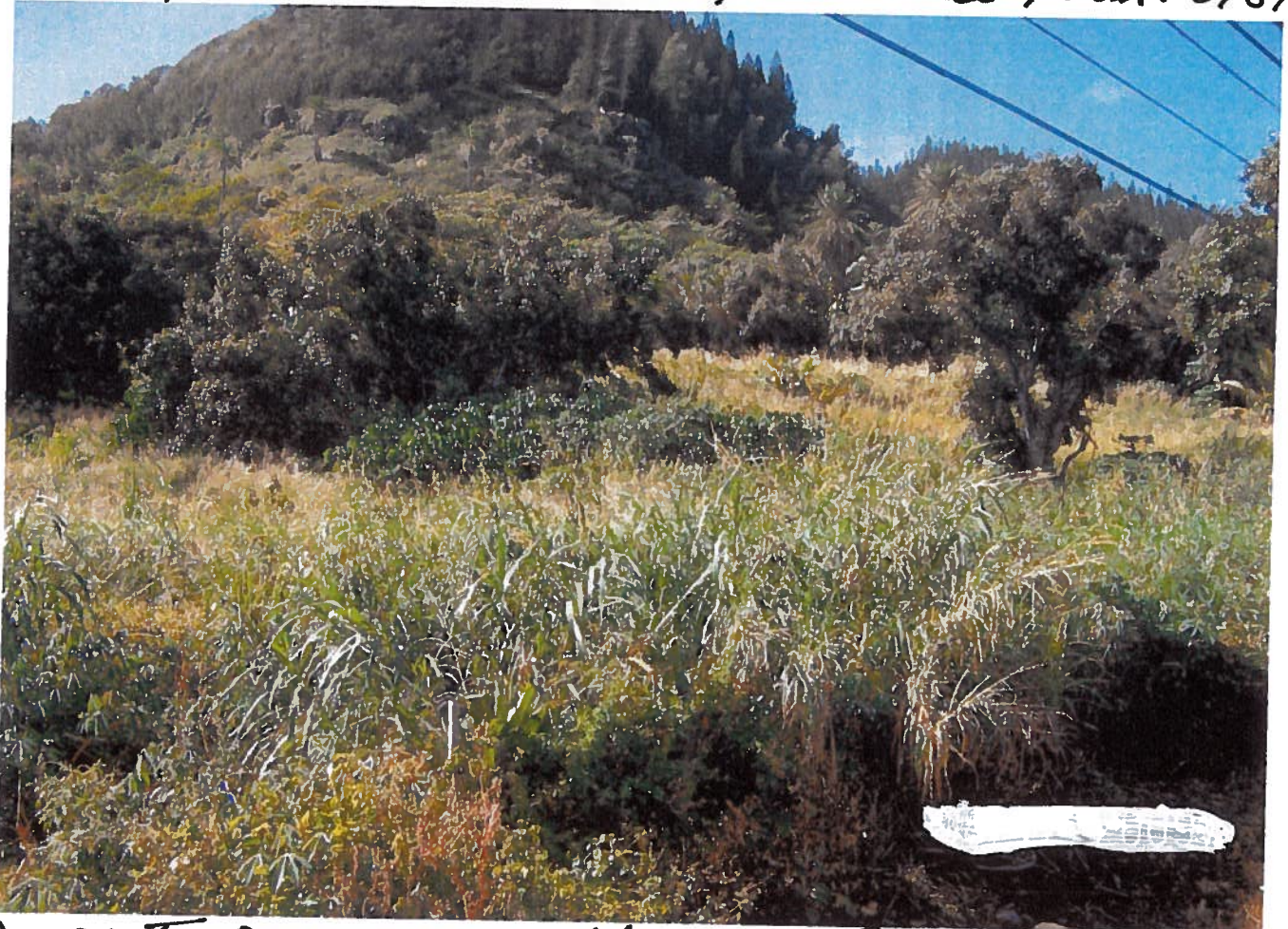
12/2/09



GL-5709 DANIEL KINIKINI



Overgrowth. Minimum Agricultural growth 10/8/09



PROPERLY OVERGROWN. MINIMUM AGRICULTURAL USE



GL-5709, DANIEL KINIKINI



ROOFING PAPER FROM DEMOLISHED CARPORT 12/8/09



TRAILER W/ AUTO TIRE

12/12/09



GL-5709, DANIEL KINIKINI



DEBRIS & AUTO PARTS.



INOPERABLE VEHICLE

12/8/00

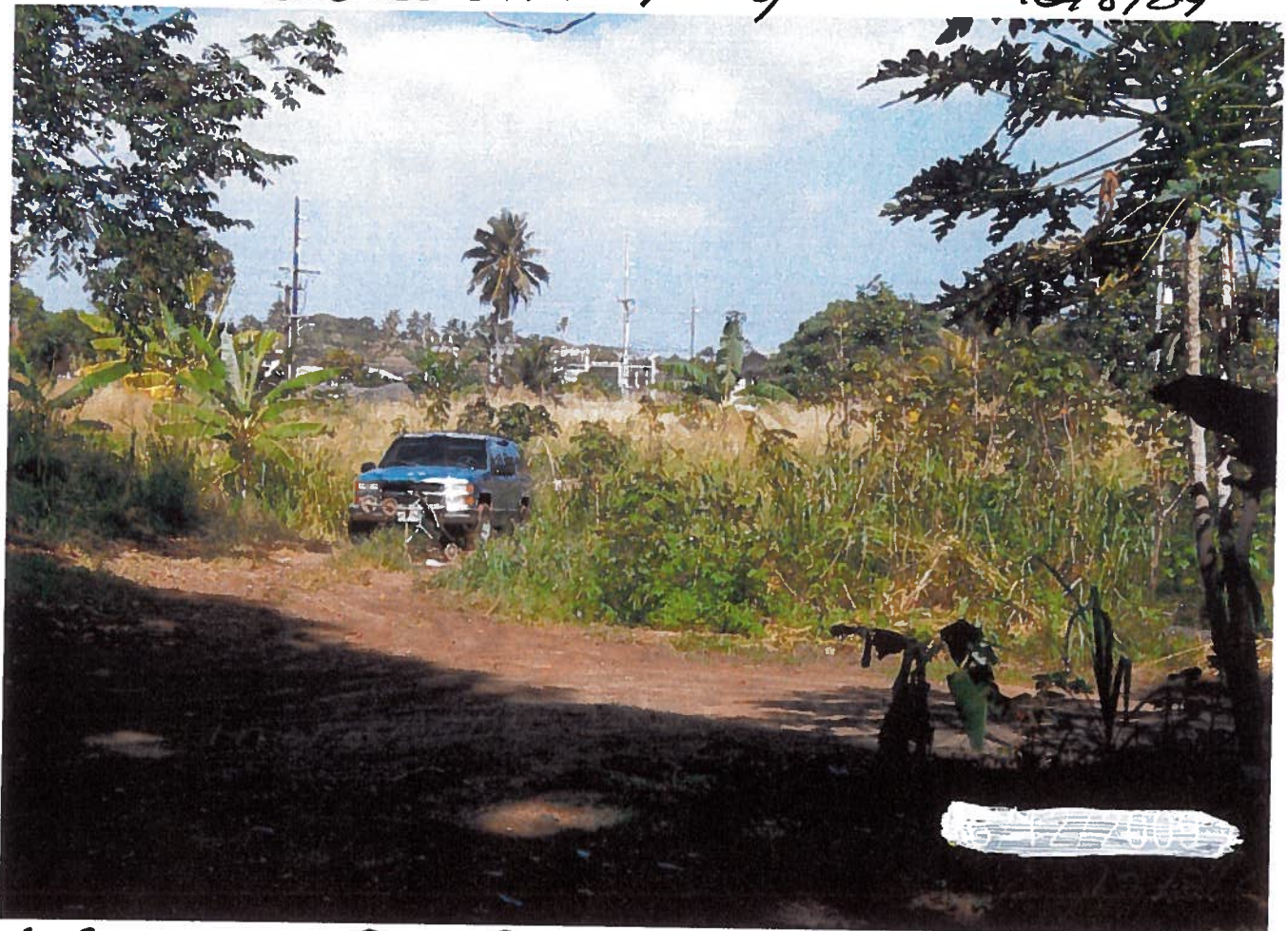


GL-5709, Daniel KINIKINI



TRASH & Debris on Property

12/8/09



VEGETATION OVERGROWTH

12/8/09



GL-5709, DANIEL KINIKINI



PILE OF COCONUT SHELLS & TREE CUTTINGS 12/8/09



MINIMUM AGRICULTURAL ACTIVITY.

12/10/09



GL-5709 Daniel Kiri Kiri



Pile of Tree Branches & Tree Cuttings 12/18/09



Trash & DEBRIS

12/10/10



GL-5109 DANIEL KINIKINI



VEGETATIVE OVERGROWTH. NO SIGN OF ACTIVITY 12/8/09



STORAGE CONTAINER ON PROPERTY 12/10/09



GL-5704, DANIEL KINIKINI



Overgrowth located towards Katuru side of property



Overgrowth. Minimum agricultural activity 1/2 to 1/4



GL-5 104, DANIEL KINIKINI



VEGETATIVE Overgrowth Located 12/8/09  
TOWARD Kahuku SIDE OF Property.